

## EN BANC

[ G.R. No. 181796, November 07, 2017 ]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE  
DIRECTOR/HEAD OF THE CRIMINAL INVESTIGATION AND  
DETECTION GROUP (CIDG), PHILIPPINE NATIONAL POLICE  
(PNP), PETITIONER, V. REGINA N. CAYANAN AND SPO1  
ROLANDO V. PASCUA, RESPONDENTS.**

### DECISION

#### **BERSAMIN, J.:**

Substantial evidence is sufficient in proceedings involving petitions for the writ of *amparo*. The respondent must show in the return on the writ of *amparo* the observance of extraordinary diligence. Once an enforced disappearance is established by substantial evidence, the relevant State agencies should be tasked to assiduously investigate and determine the disappearance, and, if warranted, to bring to the bar of justice whoever may be responsible for the disappearance.

#### **The Case**

The Government, represented by the Director/Head of the Criminal Investigation and Detection Group (CIDG) of the Philippine National Police (PNP), appeals the resolution issued on December 13, 2007 by the Regional Trial Court, Branch 91, in Quezon City (RTC) maintaining the writ of *amparo*; ordering the CIDG to continue its investigation into the disappearance of Pablo A. Cayanan (Pablo); directing respondent SPO1 Rolando V. Pascua (Pascua) to appear before the proper forum; making the temporary protection order permanent; and upholding the enrollment of Regina N. Cayanan (Regina) in the Witness Protection Program of the Department of Justice.<sup>[1]</sup>

Also under appeal is the resolution of January 31, 2008, whereby the RTC denied the petitioner's motion for reconsideration.<sup>[2]</sup>

#### **Antecedents**

On August 16, 2007, Regina filed a petition for *habeas corpus* in the RTC alleging that Pablo, her husband, was being illegally detained by the Director/Head of the CIDG;<sup>[3]</sup> that on July 9, 2007 a group of armed men identifying themselves as operatives of the CIDG, led by Pascua, had forcibly arrested Pablo on Magalang Street, East Avenue, Diliman, Quezon City without any warrant of arrest, and had then detained him at the office of the CIDG in Camp Crame, Quezon City; that Pablo had not been found or heard from since then; and that despite repeated demands by her and her relatives, the CIDG operatives had not produced the body of Pablo.<sup>[4]</sup>

On August 21, 2007, the CIDG received the petition for *habeas corpus* brought in behalf of Pablo. On August 28, 2007, the CIDG filed its return on the writ wherein it denied having the custody of Pablo or having detained him. It prayed for the dismissal of the petition for *habeas corpus*.<sup>[5]</sup>

On September 7, 2007, the RTC directed the parties to submit their respective memoranda.<sup>[6]</sup>

On October 24, 2007, Regina, albeit reiterating the allegations of the petition for *habeas corpus*, amended her petition to now seek instead the issuance of a writ of *amparo*.<sup>[7]</sup>

On October 24, 2007, the RTC issued the writ of *amparo*.<sup>[8]</sup>

On November 5, 2007, the CIDG and Pascua submitted their respective comments vis-a-vis the writ of *amparo*.<sup>[9]</sup>

On November 5, 2007, Regina moved *ex parte* for the issuance of a temporary protection order and witness protection order. The RTC granted her motion on November 6, 2007.<sup>[10]</sup>

Pascua did not appear in the proceedings in the RTC. He tendered explanations for his non-appearance, specifically: for the initial hearing, he was then suffering acute gastroenteritis; and for the later hearings, he wanted to protect his identity as part of his defenses in the criminal case of kidnapping brought against him in the Department of Justice.<sup>[11]</sup>

On December 13, 2007, the RTC issued the first assailed resolution, <sup>[12]</sup> disposing thusly:

Foregoing premises considered, judgment is hereby rendered as follows, to wit:

- 1) The Court hereby maintains the Writ of Amparo earlier issued;
- 2) For respondent CIDG Chief/Director to continue the investigation it earlier conducted;
- 3) For SPO2 Rolando V. Pascua to appear to the proper forum;
- 4) The Temporary Protection Order is hereby made permanent;
- 5) And the Granting of the Witness Protection Program availed of by the petitioner is hereby retained until the finality of the case/cases related thereto.

It is so ordered.<sup>[13]</sup>

The CIDG forthwith moved for reconsideration;<sup>[14]</sup> however, the RTC denied the motion for reconsideration on January 31, 2008 through the second assailed resolution.<sup>[15]</sup>

Hence, the CIDG has directly appealed to the Court.

### **Issues**

The CIDG urges the following grounds for review and reversal of the assailed resolutions, namely: <sup>[16]</sup>

#### **I.**

The trial court gravely erred in granting the writ of *amparo*, there being no sufficient evidence to support the same.

##### **A.**

The Rule on the writ of *amparo* did not change the rules on burden of proof.

##### **B.**

A mere accusation accompanied by inherently hearsay evidence is not sufficient ground for the court to issue a writ of *amparo* or allow its continued effectivity.

#### **II.**

Petitioner discharged its functions as required in its mandate and exhausted all remedies available under the law.

On his part, Pascua submits in his comment to the petition that: <sup>[17]</sup>

#### **I.**

Complainant failed to establish by the required burden of proof that respondent SPO2 Pascua, in his personal capacity or as police officer, caused the "forced disappearance" of Pablo Cayanan within the ambit protected by the rule on the writ of *amparo*.

##### **A.**

Following Mexico's Amparo, it is [an] essential requirement for the supposed victim to establish where he is being held. Moreover, Philippine rule on amparo specifically covers "public official or employee, or of a private individual or entity", which evidently precludes a government institution/instrumentality, such as CIDG-PNP.

##### **B.**

Enforced or forced disappearance means that it must be established that agents of the state perpetrated its commission.

#### **II.**

Respondent-Accused Pascua is entitled to presumption of innocence, which cannot be diminished by the rule on writ of amparo.

The issues for consideration and resolution in this appeal are follows: (1) whether or not sufficient evidence supported the grant of the writ of *amparo* by the RTC; (2)

whether or not the CIDG already discharged its duty as required by the *Rule on the Writ of Amparo*; (3) whether or not the petition for the issuance of the writ of *amparo* was defective; and (4) whether or not the issuance of the writ of *amparo* by the RTC impaired Pascua's right to the presumption of his innocence.

### **Ruling of the Court**

The appeal lacks merit.

We have to indicate as a preliminary observation that although this mode of appeal is usually limited to the determination of questions of law, Section 19 of the *Rule on the Writ of Amparo* explicitly allows the review by the Court of questions of fact or of law or of both. Accordingly, we shall also determine herein the sufficiency of the evidence presented in support of the petition for the issuance of the writ of *amparo*.

#### **I.**

#### **Substantial evidence existed to warrant the issuance of the writ of *amparo***

Section 1 of the *Rule on the Writ of Amparo* defines the nature of the writ of *amparo* as a remedy against enforced disappearances or threats to life, liberty and personal security, *viz.*:

Section 1. *Petition.* - The petition for a writ of *amparo* is a remedy available to any person whose right to life, liberty and security is violated or threatened with violation by an unlawful act or omission of a public official or employee, or of a private individual or entity.

The writ shall cover extralegal killings and enforced disappearances or threats thereof.

Section 17 of the *Rule on the Writ of Amparo* specifies the degree of proof required from the petitioner as a respondent named in the petition for the writ of *amparo*, to wit:

Section 17. *Burden of Proof and Standard of Diligence Required.* - The parties shall establish their claims by **substantial evidence**.

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Section 18 of the *Rule on the Writ of Amparo* requires substantial evidence to establish the allegations of the petition for the writ of *amparo* and to warrant granting the privilege of the writ of *amparo*, to wit:

Section 18. *Judgment.* - x x x If the **allegations in the petition are proven by substantial evidence**, the court shall **grant** the privilege of the writ and such reliefs as may be proper and appropriate; **otherwise**, the privilege shall be **denied**.

Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.<sup>[18]</sup> This standard was applied in *Secretary of National Defense v. Manalo*,<sup>[19]</sup> the first ruling by the Court relating to the remedy of the writ of *amparo*.

In *Razon, Jr. v. Tagitis*,<sup>[20]</sup> a case involving the propriety of the trial court's issuance of the writ of *amparo*, the Court expounded on the need for substantial evidence to support the petition for the writ of *amparo*, viz.:

We see no merit in the petitioners' submitted position that no sufficient evidence exists to support the conclusion that the Kasim evidence unequivocally points to some government complicity in the disappearance x x x. We painstakingly ruled:

To give full meaning to our Constitution and the rights it protects, we hold that, as in *Velasquez*, **we should at least take a close look at the available evidence** to determine the correct import of every piece of evidence - **even of those usually considered inadmissible under the general rules of evidence - taking into account the surrounding circumstances and the test of reason** that we can use as basic minimum admissibility requirement x x x.

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Likewise, we see no merit in the petitioners' claim that the Kasim evidence does not amount to substantial evidence required by the Rule on the Writ of *Amparo*. This is not a new issue; we extensively and thoroughly considered and resolved it in our December 3, 2009 Decision. At this point, we need not go into another full discussion of the justifications supporting an evidentiary standard specific to the Writ of *Amparo*. Suffice it to say that **we continue to adhere to the substantial evidence rule that the Rule on the Writ of Amparo requires, with some adjustments for flexibility in considering the evidence presented. When we ruled that hearsay evidence** (usually considered inadmissible under the general rules of evidence) **may be admitted as the circumstances of the case may require, we did not thereby dispense with the substantial evidence rule; we merely relaxed the evidentiary rule on the admissibility of evidence**, maintaining all the time the standards of reason and relevance that underlie every evidentiary situation. **This, we did, by considering the totality of the obtaining situation and the consistency of the hearsay evidence with the other available evidence in the case.**

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Thus viewed, common threads that plainly run in the three cited cases are applicable to the present case. There is the evidence of ineffective investigation in *Manalo* and *Velasquez Rodriguez*, while **in all three was the recognition that the burden of proof must be lowered or relaxed (either through the use of circumstantial or indirect evidence or even by logical inference); the requirement for direct evidence to establish that an enforced disappearance occurred -- as the petitioners effectively suggest -- would render it extremely difficult, if not impossible, to prove that an individual has been made to disappear. In these lights, we emphasized** in our December 3, 2009 Decision **that while the need for substantial**